Billing Code: 3510-33-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 744 and 758

[Docket No. 140530464-4464-01]

RIN: 0694-AG20

Export Administration Regulations (EAR): Addition of Certain Persons to the Unverified

List (UVL) and Making a Correction

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export

Administration Regulations (EAR) by adding twenty-nine (29) persons to the Unverified List

(the "Unverified List" or UVL). The 29 persons are being added to the UVL on the basis that

BIS could not verify their bona fides because an end-use check could not be completed

satisfactorily for reasons outside the U.S. Government's control. In addition, this rule reinserts

a requirement for exporters to file an Automated Export System (AES) record for all exports

subject to the EAR involving persons listed on the UVL following that provision's inadvertent

removal from the EAR.

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The UVL contains the names and addresses of foreign persons who are or have been parties to a transaction, as that term is described in the EAR, involving the export, reexport, or transfer (in-country) of items subject to the EAR, and whose *bona fides* BIS has been unable to verify through an end-use check. There is a suspension of license exceptions for exports, reexports, and transfers (in-country) involving a party or parties to the transaction who are listed on the UVL, and a requirement for exporters, reexporters, and transferors to obtain (and keep a record of) a UVL statement from a party or parties to the transaction who are listed on the UVL before proceeding with exports, reexports, and transfers (in-country) involving items subject to the EAR, but where the item does not require a license.

DATES: *Effective Date*: This rule is effective: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Kevin Kurland, Director, Office of Enforcement Analysis, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-4255 or by email at UVLRequest@bis.doc.gov.

SUPPLEMENTARY INFORMATION

Background

On August 21, 2008 (73 FR 49311), BIS expanded the scope of reasons to add persons to the Entity List (Supplement No. 4 Part 744). That rule amended Section 744.11 of the EAR to provide illustrative examples of the types of conduct that the U.S. Government could determine are contrary to U.S. national security or foreign policy interests for purposes of changes to the Entity List. One example listed in that section is, "[p]reventing accomplishment of an end use check conducted by or on behalf of BIS or the Directorate of Defense Trade Controls of the

Department of State by: precluding access to; refusing to provide information about; or providing false or misleading information about parties to the transaction or the item to be checked."

However, end-use checks sometimes cannot be completed for reasons unrelated to the cooperation of the foreign party subject to the end-use check. In such situations, BIS may add persons to the UVL where BIS or federal officials acting on BIS's behalf have been unable to verify a foreign person's bona fides (i.e., legitimacy and reliability relating to the end use and end user of items subject to the EAR), where an end-use check, such as a pre-license check (PLC) or a post-shipment verification (PSV), cannot be completed satisfactorily for such purposes for reasons outside the U.S. Government's control. For example, BIS sometimes initiates end-use checks and cannot find a foreign party at the address indicated on export documents, and cannot locate the party by telephone or email. Additionally, BIS sometimes is unable to conduct end-use checks when host government agencies do not respond to requests to conduct end-use checks or refuse to schedule them in a timely manner. Under these circumstances, there may not be a basis to add the foreign persons at issue to the Entity List, particularly if there is no nexus between the foreign person's conduct and the failure to produce a complete, accurate and useful check (see § 744.11(b)(4) of the EAR (Criteria for revising the Entity List)).

Furthermore, BIS sometimes conducts end-use checks but cannot verify the *bona fides* of a foreign party. For example, BIS may be unable to verify *bona fides* if during the conduct of an end-use check a recipient of items subject to the EAR is unable to produce those items for visual inspection or provide sufficient documentation or other evidence to confirm the disposition of those items. The inability of foreign persons subject to end-use checks to

demonstrate their *bona fides* raises concerns about the suitability of such persons as participants in future exports, reexports, or transfers (in-country) and indicates a risk that items subject to the EAR may be diverted to prohibited end uses and/or end users. However, BIS may have insufficient information to establish that such persons are involved in activities described in § 744.11 of the EAR, preventing the placement of the persons on the Entity List. In such circumstances, those foreign persons may be added to the Unverified List.

On December 19, 2013 (78 FR 76741), BIS published a final rule that amended the EAR by: (1) requiring exporters to file an AES record for all exports subject to the EAR involving persons listed on the UVL (see § 758.1(b)(8) of the EAR); (2) suspending the availability of license exceptions for exports, reexports, and transfers (in-country) involving persons listed on the UVL (see § 740.2(a)(17) of the EAR); (3) requiring exporters, reexporters and transferors (in-country) to obtain and retain a UVL statement from UVL-listed persons before proceeding with exports, reexports, and transfers (in-country) that are not otherwise subject to a license requirement under the EAR involving such persons (see §§744.15 and 762.2(b) of the EAR); (4) adding the UVL to Supplement No. 6 to Part 744, and (5) adding to the EAR procedures to request removal or modification of a UVL entry (see §744.15(d) of the EAR). That rule took effect on January 21, 2014.

Supplement No. 6 to Part 744 ("the UVL") contains the names and addresses of foreign persons who are or have been parties to a transaction, as that term is described in § 748.5 of the EAR, involving the export, reexport, or transfer (in-country) of items subject to the EAR, and whose *bona fides* BIS has been unable to verify through an end-use check.

BIS adds a person to the UVL in accordance with the criteria set forth in § 744.15(c)(1) of the EAR. For example, in some instances, BIS may not be able to conduct an end-use

check, such as a PLC or a PSV, at all because, among other potential reasons, BIS was unable to locate or contact the subject of the check or the host government declined to schedule the check in a timely manner. Alternatively, BIS may not be able to complete a satisfactory enduse check because, *inter alia*, the foreign party is unable to demonstrate its *bona fides* or the disposition of the items in question during the end-use check. In either circumstance, BIS may determine to add the foreign person to the UVL.

Requests for removal of a UVL entry must be made in accordance with § 744.15(d) of the EAR. Decisions regarding the removal or modification of UVL listings will be made by the Deputy Assistant Secretary for Export Enforcement, based on a demonstration by the listed person of its *bona fides*.

Changes to the EAR

Supplement No. 6 to Part 744 ("the Unverified List" or "UVL")

This rule adds twenty-nine (29) persons to the UVL by amending Supplement No. 6 to Part 744 of the EAR to include their names and addresses. BIS adds these persons in accordance with the criteria for revising the UVL set forth in § 744.15(c) of the EAR. Each listing is grouped by country, and accompanied by the party's name(s) and address(es) as well as the *Federal Register* citation and date the person was added to the UVL. The UVL is included in the Consolidated Screening List, available at www.export.gov. Restrictions and requirements for transactions that include listed persons on the UVL are found in § 744.15 of the EAR.

AES Record

In addition, this rule contains a requirement for exporters to file an AES record for all exports of tangible items subject to the EAR involving persons listed on the UVL. That

requirement was previously proposed and made final in a rule published on December 19, 2013 (78 FR 76741), but inadvertently omitted in a corrections rule published on January 29, 2014 (79 FR 4613). This rule corrects that error by reinserting the AES filing requirement in § 758.1(b)(8).

Savings Clause

Shipments (1) removed from license exception eligibility or that are now subject to requirements in § 744.15 of the EAR as a result of this regulatory action, (2) eligible for export, reexport, or transfer (in-country) without a license before this regulatory action, and (3) on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export, on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], pursuant to actual orders, may proceed to that UVL listed person under the previous license exception eligibility or without a license so long as they have been exported from the United States, reexported or transferred (in-country) before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. Any such items not actually exported, reexported or transferred (in-country) before midnight, on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], are subject to the requirements in § 744.15 of the EAR in accordance with this regulation.

Export Administration Act

Since August 21, 2001, the Export Administration Act of 1979, as amended, has been in lapse. However, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR

16129 (March 13, 2013), and as extended by the Notice of August 8, 2013, 78 FR 49107 (August 12, 2013) has continued the EAR in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

Rulemaking Requirements

- 1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under section 3(f) of Executive Order 12866.
- 2. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment and a delay in effective date are inapplicable to the provisions of this rule adding 29 persons to the UVL because those provisions in the regulation involve military or foreign affairs. BIS implements this rule to protect U.S. national security or foreign policy interests by requiring a license for items being exported, reexported, or transferred (in country) involving a party or parties to the transaction who are listed on the UVL. If this rule were delayed to allow for notice and comment and a delay in effective date, then entities being added to the UVL by this action would continue to be able to receive items without a license and to conduct activities contrary to the national

security or foreign policy interests of the United States. In addition, publishing a proposed rule would give these parties notice of the U.S. Government's intention to place them on the UVL, and would create an incentive for these persons to either accelerate receiving items subject to the EAR to conduct activities that are contrary to the national security or foreign policy interests of the United States, and/or to take steps to set up additional aliases, change addresses, and other measures to try to limit the impact of the listing once a final rule was published.

The Department finds there is good cause under 5 U.S.C. 553(b)(3)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment to the provision of this rule adding Section 758.1(b)(8) because they are contrary to the public interest and unnecessary. The addition of that paragraph was proposed by the Department on September 11, 2013 (78 FR 55664), and made final in a rule published on December 19, 2013 (78 FR 76741). The final rule went into effect on January 21, 2014. Due to an oversight, that paragraph was mistakenly removed through the publication of a rule (79 FR 4613) correcting paragraphs (1) through (7) in § 758.1(b). This rule corrects that inadvertent omission by reinserting paragraph (b)(8).

The Department finds that providing notice and comment is contrary to the public interest because doing so would only cause confusion about what exporters are required to do under the Regulations when exporting items involving a parties or parties who are listed on the Unverified List. Notice and an opportunity for the public to comment are also unnecessary because, as discussed above, the Department already published a proposed rule giving the public notice and the opportunity to comment on this paragraph. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not

required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

3. Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under the following control numbers: 0694-0088, 0694-0122, 0694-0134, and 0694-0137.

This rule slightly increases public burden in a collection of information approved by OMB under control number 0694-0088, which authorizes, among other things, export license applications. The removal of license exceptions for listed persons on the Unverified List will result in increased license applications being submitted to BIS by exporters. Total burden hours associated with the Paperwork Reduction Act and OMB control number 0694-0088 are expected to increase minimally, as the suspension of license exceptions will only affect transactions involving persons listed on the Unverified List and not all export transactions. Because license exceptions are restricted from use, this rule decreases public burden in a collection of information approved by OMB under control number 0694-0137 minimally, as this will only affect specific individual listed persons. The increased burden under 0694-0088 is reciprocal to the decrease of burden under 0694-0137, and results in no change of burden to the public. This rule also increases public burden in a collection of information under OMB control number 0694-0122, as a result of the exchange of UVL statements between private parties, and under OMB control number 0694-0134 as a result of appeals from persons listed

on the UVL for removal of their listing. The total increase in burden hours associated with both of these collections is expected to be minimal, as they involve a limited number of persons listed on the UVL.

4. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

List of Subjects

15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

15 CFR Part 758

Export clearance requirements.

Accordingly, Parts 744 and 758 of the Export Administration Regulations (15 CFR parts 730-774) are amended as follows:

Part 744 - [AMENDED]

1. The authority citation for 15 CFR Part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp.,

p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 8,
2013, 78 FR 49107 (August 12, 2013); Notice of September 18, 2013, 78 FR 58151
(September 20, 2013); Notice of November 7, 2013, 78 FR 67289 (November 12, 2013);
Notice of January 21, 2014, 79 FR 3721 (January 22, 2014).

2. Supplement No. 6 to Part 744 is revised to read as follows:

SUPPLEMENT NO. 6 TO PART 744 – UNVERIFIED LIST

Exports, reexports, and transfers (in-country) involving parties to the transaction who are listed in this supplement are subject to the restrictions and requirements outlined in § 744.15 of the EAR.

Country	Listed Person and Address	Federal Register Citation and Date of Publication
CHINA	China National Plant Import/Export Co. Room 2135, Jingxin Building A No Dong San Huan North Road Beijing, China	79 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
HONG KONG	Brilliance Technology Ltd Flat A, 11/F, Adolfo Mansion 114-116 Austin Road Tsim Sha Tsui, Kowloon, Hong Kong; <i>and</i> Rm 1203, 12/F, Hip Kwan Commercial Bldg 38 Pitt Street Yau Ma Tei, Hong Kong	79 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
	Dynasense Photonics Co., Limited Unit 2209, 22/F, Wu Chung House 213 Queen's Road East Wanchai, Hong Kong	79 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
	Hi-Shine Technology (HK) Limited Flat D12, 11/F, King Yip Factory Bldg 59 King Yip Street Kwun Tong, Kowloon, Hong Kong; <i>and</i> Room 603, 6/F, Hang Pont Commercial Building 31 Tonking Street Cheung Sha Wan, Kowloon, Hong Kong	79 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
	Hong Kong Haimao Info-Tec Development Co Ltd Rm 1013B, Well Fung Ind. Center Ta Chuen Ping Street Kwai Chung, Hong Kong	79 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Lianqi (HK) Electronics Co Unit N, 3/F, Hopewell Hou 175 Hip Wo Street KwunTong, Kowloon, Hon	se PAGE NUMBER AND DATE OF
Lion Chip Electronics Ltd Unit N, 3/F, Hopewell Hou 175 Hip Wo Street KwunTong, Kowloon, Hon	AND DATE OF
Maipu Communication Teo 7/F Kerry Warehouse 36-42 Shan Mei St Shatin, Hong Kong	29 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
Nano Tech International Co Unit 5, 27/F, Richmond Co 109 Argyle Street Mongkok, Kowloon, Hong	mmercial Building PAGE NUMBER AND DATE OF
Narpel Technology Co., Lin Unit A, 6/F, Yip Fat Factor Phase 1 No 77 Hoi Yuen Road Kwun Tong, Kowloon, Hoi	y Building, PAGE NUMBER AND DATE OF PUBLICATION IN
People Tele-com Group Flat A, 11/F, Adolfo Mansi 114-116 Austin Road Tsim Sha Tsui, Kowloon, I	AND DATE OF

Powersun Electronics Flat/Rm 502D, Hang Pont Commercial Building 31 Tonkin Street Cheung Sha Wan, Kowloon, Hong Kong Team Kingdom Limited Unit 526, 5/F, Advanced Technology Centre 2 Choi Fat Street Sheung Shui, New Territories, Hong Kong	79 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER]. 79 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
Top-Rank Int Trade (HK) Room 201-202, Westin Centre 26 Hung To Road Kwun Tong, Hong Kong; <i>and</i> Units A&B, 15/F, Neich Tower 128 Gloucester Road Wanchai, Hong Kong	79 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
Tianao Electronics Limited Rm 9, 7/F, Block G, East Sun Industrial Ctr 16 Shing Yip Street Kwun Tong, Kowloon, Hong Kong	79 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
Vessel Technology Limited Rm 2309, 23/F, Ho King Comm Ctr 2-16 Fayuen St. Mongkok, Kowloon, Hong Kong	79 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
Win Electronics Limited G/F, 26 Pau Chung Street Tokwawan, Kowloon, Hong Kong; <i>and</i> Rm 2309, 23/F, Ho King Comm Ctr 2-16 Fayuen St. Mongkok, Kowloon, Hong Kong	79 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].

	Win Cami International I 4d	
	Win-Semi International Ltd Flat 6, 20/F, Mega Trade Centre	79 FR [INSERT FR
	1-9 Mei Wan Street	PAGE NUMBER
	Tsuen Wan, Hong Kong; and	AND DATE OF PUBLICATION IN
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	Unit 503, 5/F, Silvercord Tower 2	REGISTER].
	30 Canton Road	
	Tsimshatsui, Hong Kong	
-	Yashen (HK) Electronics	70 ED HNGEDT ED
	Flat R, 15/F, Phase 2, Goldfield Industrial	79 FR [INSERT FR PAGE NUMBER
	Building	AND DATE OF
	144-150 Tai Lin Pai Road	PUBLICATION IN
	Kai Chung, New Territories, Hong Kong; and	THE FEDERAL
	Room N, 3/F, Mongkok Building	REGISTER].
	97 Mongkok Road	
	Kowloon, Hong Kong	
	ZDAS (HK) Company	79 FR [INSERT FR
	G/F, 16 Kwan Tei North Tsuen Leung Yeuk	PAGE NUMBER
	Tau	AND DATE OF
	Sha Tau Kok Road	PUBLICATION IN
	Fanling, Hong Kong; and	THE FEDERAL REGISTER].
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	Room 1609, 16/F, Block B, Veristrong	
	Industrial Center	
	34-36 Au Pui Wan Street	
	FoTaan, Shatin, New Territories, Hong Kong	
	ZhongJie Electronics	79 FR [INSERT FR
	G/F, 26 Pau Chung Street	PAGE NUMBER
	Tokwawan, Kowloon, Hong Kong; and	AND DATE OF PUBLICATION IN
	Dm 2200 22/E Ha Vina Comm Ctr	THE FEDERAL
	Rm 2309, 23/F, Ho King Comm Ctr 2-16 Fayuen St.	REGISTER].
	Mongkok, Kowloon, Hong Kong	_
	JSC Voentelecom	
RUSSIA	Bolshaya Olenya Str. 15A	79 FR [INSERT FR
	Moscow, Russia	PAGE NUMBER AND DATE OF
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		THE FEDERAL
		REGISTER].
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	Nasosy Ampika 3-ya Institutskaya St. Bld. 15 Moscow, Russia	79 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
	Nuclin LLC Serebryakova Proezd 14 Moscow, Russia	79 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
	SDB IRE RAS 1 Vvedenskogo Square Fryazino, Russia	79 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
	Security 2 Business Academy, a.k.a. S2BA, a.k.a. Academy of Business Security Deguninskaya Street 10 Moscow, Russia; <i>and</i> Novoslobodskaya Str. 14/19 Moscow, Russia	79 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
UNITED ARAB EMIRATES	Doubair General Trading Co. LLC P.O. Box 30239 Dubai, UAE	79 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
	Golden Business FZE Warehouse #FZS1 AN08 Jebel Ali Free Zone Dubai, UAE; <u>and</u> P.O. Box 263128 Dubai, UAE	79 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].

World Heavy Equipment Industrial Area 10	79 FR [INSERT FR
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World Equipment Trading	
Industrial Area 10	REGISTER].
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Part 758 - [AMENDED]

3. The authority citation for 15 CFR Part 758 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013).

4. Section 758.1 is amended by adding paragraph (b)(8) to read as follows:

§ 758.1 The Electronic Export Information (EEI) filing to the Automated Export System (AES)

* * * * *

(b) * * *

(8) For all exports of tangible items subject to the EAR where parties to the transaction, as described in § 748.5(d) through (f) of the EAR, are listed on the Unverified List (Supplement 6 to Part 744 of the EAR), regardless of value or destination.

* * * * *

Dated: June 11, 2014

Kevin J. Wolf,

Assistant Secretary for Export Administration.

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